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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/622,536      | 07/21/2003  | Bernard S. Sain      | 046504-0111         | 3879             |

22428 7590 05/13/2004

FOLEY AND LARDNER  
SUITE 500  
3000 K STREET NW  
WASHINGTON, DC 20007

EXAMINER

GUTMAN, HILARY L

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

3612

DATE MAILED: 05/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                               |                                  |  |
|------------------------------|-------------------------------|----------------------------------|--|
| <b>Office Action Summary</b> | Application No.<br>10/622,536 | Applicant(s)<br>SAIN, BERNARD S. |  |
|                              | Examiner<br>Hilary Gutman     | Art Unit<br>3612                 |  |

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>7/21/03 &amp; 11/24/03</u> | 6) <input type="checkbox"/> Other: ____  |

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

### ***Drawings***

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the boats and busses of claim 6 and the movable and selectively positionable connection device of claim 12 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Specification***

3. The disclosure is objected to because of the following informalities:

In the title and throughout the specification (as at [0027]), the word "contrail" is unclear as to what context the word is being used. Specifically, contrails are believed to be streaks of condensed water vapor created in the air by an airplane or rocket and high altitudes, which is appears to be unrelated to the shipping platform of the current application.

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On page 2, [0007], line 3, "at" should be inserted before "either".

On page 5, [0024], line 4, "Figs. 3-6" should apparently be "Figs. 4 and 6".

Appropriate correction is required.

4. The title of the invention is misleading and not descriptive. Specifically, the title includes the term "contrail" which appears unrelated to the shipping platform disclosed in the current application. A new title is required that is clearly indicative of the invention to which the claims are directed.

#### *Claim Objections*

5. Claims 1, 3, 5, 8, and 13-14 are objected to because of the following informalities:

In claim 1, line 3, "on" should be inserted after "provided".

In claim 3, lines 1-2, "lower" should apparently be "underside" to refer back to claim 2.

In claim 5, line 1, "lower" should be "underside". On line 2, "member is" should be "members are". On line 3, "to" should be inserted before "allow". And on lines 3-4, "they are engageable with" could apparently be "to which the cross-members are engages".

In claim 8, line 2, "said" should perhaps be inserted before "telescopic".

In claim 13, line 4, "on" should be inserted after "provided".

With regard to claim 14, it is unclear whether the applicant intended for this claim to depend from claim 13 or be independent as set forth. Appropriate correction is required.

#### *Claim Rejections - 35 USC § 112*

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 6 and 14-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 6, the phrase "etc." renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "etc."), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

In addition, claim 6 recites "boats" and "buses" which is not disclosed in the specification or supported in the drawings.

Claim 14 recites the limitation "the platform" in line 1, "the upper cross-members" in lines 3 and 6, "the shipping platform" in line 3, "the first connection rails" in line 5, and "the at least one adjacent container" in lines 6-7. There is insufficient antecedent basis for these limitations in the claim.

Claim 15 recites the limitation "the at least one adjacent container" in lines 4-5. There is insufficient antecedent basis for this limitation in the claim.

#### ***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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9. Claims 1-3, 5-7, and 9-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Betjemann.

Betjemann (3,386,600) discloses a shipping platform comprising: a platform 21, 22; and adjustable length pillars 23, 24, 25, 26 provided at either side and at both ends of the platform, the adjustable pillars each having an upper cross-member 27, 28, 29, 30 interconnecting the upper ends thereof.

With regard to claim 2, the platform is provided with underside cross-members (best seen in Figures 3 and 5) which are rigidly connected with the platform and which extend parallel with the upper cross-members 29, 30.

With regard to claim 3, the upper and underside cross-members are provided with opening (Figure 3) by which the upper and underside cross-members are "engageable" with connection rails used to interconnect containers.

With regard to claim 5, the upper and underside cross-members are provided with apertures (Figure 3) which are so sized and located as to allow releaseable interconnection with the connection rails they are engageable with.

With regard to claim 6, the platform is flat and adapted to have vehicles (Figure 7) and other oversized cargo (Figure 8) thereon.

With regard to claim 7, the adjustable length pillars each comprise a base member (23A) as seen in Figure 4 rigidly connected with the platform and a telescopic member (23B) which is slidably disposed with the base member.

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With regard to claim 9, the adjustable length pillars each further comprise a locking device 32 which selectively locks the telescopic member in one of a plurality of positions relative to the base member.

With regard to claim 10, each locking device 32 comprises a locking pin which is disposed through apertures which are formed in the telescopic member and the base member of the adjustable length pillars.

With regard to claim 11, a connection device 37 (Figure 5) is provided on the platform and adapted to facilitate connect of cargo thereto.

With regard to claim 12, the connection device 37 is movable and selectively positionable on the platform.

10. Claims 1-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Glassmeyer.

Glassmeyer (4,151,925) discloses a shipping platform comprising: a platform 12; and adjustable length pillars 46 provided at either side and at both ends of the platform, the adjustable pillars each having an upper cross-member 48, 50, 72 interconnecting the upper ends thereof.

With regard to claim 2, the platform is provided with underside cross-members 24, 38 which are rigidly connected with the platform and which extend parallel with the upper cross-members.

With regard to claim 3, the upper and underside cross-members are provided with opening (generally at 40 and 70) by which the upper and underside cross-members are "engageable" with connection rails used to interconnect containers.

With regard to claim 5, the upper and underside cross-members are provided with apertures (generally at 40, 70) which are so sized and located as to allow releaseable interconnection with the connection rails they are "engageable" with.

With regard to claim 6, the platform is flat and adapted to have vehicles (not shown) and other oversized cargo thereon.

With regard to claim 7, the adjustable length pillars each comprise a base member 46 rigidly connected with the platform and a telescopic member 66 which is slidably disposed with the base member.

With regard to claim 8, the upper cross-members interconnect upper ends of a pair of the telescopic members (as seen in Figure 3).

With regard to claim 9, the adjustable length pillars each further comprise a locking device 86 which selectively locks the telescopic member in one of a plurality of positions relative to the base member.

With regard to claim 10, each locking device 86 comprises a locking pin which is disposed through apertures which are formed in the telescopic member and the base member of the adjustable length pillars.

### ***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.



12. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Glassmeyer as applied to claim 3 above, and further in view of Sain et al. (6,027,291).

Glassmeyer (4,151,925) discloses the upper and underside cross-members being provided with opening (generally at 40 and 70) by which the upper and underside cross-members are "engageable" with connection rails used to interconnect containers.

Glassmeyer lacks the connection rails themselves wherein the connection rails engage the containers in a side-by-side configuration.

Sain et al. '291 teach a conventional connection rails engaging stacked containers in a side-by-side configuration.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided connection rails as taught by Sain et al. upon the platforms of Glassmeyer in order to connect a plurality of containers in a side-by-side configuration and allow for the vertical stacking of containers of different dimensions.

13. Claims 13-16, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Glassmeyer in view of Sain et al. (6,027,291).

For claim 13, Glassmeyer discloses a shipping platform arrangement comprising: a shipping platform comprising: a platform 12; and adjustable length pillars 46 provided at either side and at both ends of the platform, the adjustable length pillars each having an upper cross-member 48, 50, 72 interconnecting the upper ends thereof.

For claim 14, as best understood, Glassmeyer discloses a shipping platform arrangement wherein a platform 12 comprises lower cross-members 24 fixed to a lower side thereof, the lower

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cross-members being parallel to upper-cross members 48, 50, 72, and wherein the shipping platform further comprises: first connection devices (generally at 70).

Glassmeyer lacks first and second connection rails and first and second connection devices.

Sain et al. teach a shipping platform arrangement comprising: a shipping platform (inherent) upon which a plurality of shipping containers are disposed; each shipping container having upper and lower surfaces; and first connection rails 10, 10' which are disposed over and connectable to the upper surfaces, the first connection rails being connectable to at least one container which is disposed adjacent the shipping platform.

Additionally, Sain et al. teach the lower surfaces of the container being fixed at a lower side thereof, the lower surfaces being parallel to the upper surfaces, and wherein the connection rails further comprise: first connection devices 24 which interconnect the first connection rails to the upper surfaces and to an upper side of the at least one adjacent container.

Further, second connection rails 10, 10' are disposed under the lower surfaces and interconnected thereto by second connection devices 24 which connect the second connection rails to lower sides of the at least one adjacent container.

The first and second connection devices 24 comprise twist locks.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided first and second connection rails and first and second connection devices as taught by Sain et al. upon the shipping platform of Glassmeyer in order to securely interconnect a plurality of the shipping platforms together for shipment thereof.

*Conclusion*

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hilary Gutman whose telephone number is 703-305-0496.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on 703-308-3102. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

16. **Any response to this action should be mailed to:**

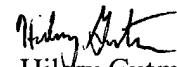
Assistant Commissioner for Patents  
Washington, D.C. 20231

**or faxed to:**

(703) 872-9326, (for formal communications intended for entry)

**or:**

(703) 746-3515, (for informal or draft communications, please clearly label  
"PROPOSED" or "DRAFT").

  
Hilary Gutman  
3612

5/16/07